

Notice of Allowability

Application No.

10/074,974

Examiner

Patricia A Patten

Applicant(s)

PINNELL ET AL.

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/18/2003.
2. ☒ The allowed claim(s) is/are 19-21,23-26,29 and 30.
3. ☒ The drawings filed on 2/13/02 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>1/15/04</u> |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

Claims 1-16, 18-21 and 23-28 are pending in the application.

EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, It MUST be submitted no later than the payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Attorney Lynn E. Barber on 1/15/03.

IN THE TITLE:

Replace the title of the Invention with: -- Topical composition comprising olive leaf extract – on the first page of the Specification as well as the bibliography data sheet.

IN THE CLAIMS:

Cancel claims 1-15 and 27-28 drawn to the non-elected invention elected without traverse in the response of 5/30/02. Also, cancel claims 16 and 18 and add the following two new claims:

--Claim 29. A product for application to skin comprising, by weight:

- a) at least about 0.5% of an extract of olive leaves obtained by steps comprising treatment of the olive leaves to inactivate enzymes therein, followed by extraction of the enzyme-inactivated olive leaves with a non-aqueous organic solvent to form an initial extract followed by purification and concentration thereof;
- b) 5-25% of L-ascorbic acid;
- c) 0.5 - 2% of a vitamin E component selected from the group consisting of tocopherols and tocotrienols; and
- d) 0.5 - 2% of vitamin A. --.

--Claim 30. The product according to claim 29, wherein the extract of olive leaves is obtained by steps comprising:

- a) treating the olive leaves to inactivate enzymes in the olive leaves;
- b) continuously extracting the treated olive leaves with a non-aqueous solvent, purifying by filtration and concentrating to form a first paste;
- c) removing the non-aqueous solvent;
- d) suspending the first paste in water, boiling, filtering, and re-concentrating to form a second paste; and

e) combining the second paste with alcohol and charcoal, boiling, filtering and re-concentrating to form a final extract, wherein said final extract contains about 6-10% oleuropein. --.

Please make the following claim amendments:

Claim 19 replace 'claim 16' with – claim 29 --.

Claim 20, replace 'claim 18' with – claim 30 --.

Claim 21, replace 'claim 16' with – claim 29 --.

Claim 23, replace 'claim 16' with – claim 29 --.

Claim 25, replace 'claim 16' with – claim 29 --.

Claim 26, replace 'claim 16' with – claim 29 --.

Claim 26, after 'pH' insert – of the product --.

Claims 19 - 21, 23-26 and 29-30 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A Patten whose telephone number is (571) 272-0986. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on (571) 272-0961. The fax phone

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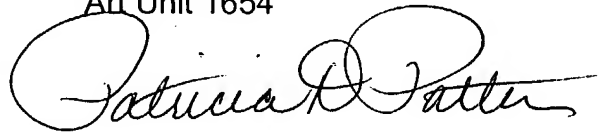
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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Patricia A Patten
Examiner
Art Unit 1654

01/20/04

A handwritten signature in cursive script, reading "Patricia A. Patten", written in black ink.